

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

PAM RYMER O'DWYER :

CHARLES D. PATY :

KEM ALEXANDER :

RALPH D. PATY :

MARION GAYE PATY WADE :

DOCKET NO.: 19 - 0563

PART _____

WILLIAM WISE :

Plaintiffs, :

VS :

CITY OF CHATTANOOGA :

Defendant. :

COMPLAINT FOR DECLARATORY JUDGMENT

1. Come the plaintiffs, by and through their attorneys, Paty, Rymer & Ulin, P. C. and brings this cause of action for declaratory judgment pursuant to Tennessee Code Annotated §29-14-101 et. seq. to declare null and void defendant's, City of Chattanooga, Ordinance No. 13487, passed on Second and Final Reading on July 30, 2019, (a copy of Ordinance No. 13487 is attached and marked Exhibit 1). Said Ordinance amended and added a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Section 11-525 through 11-534 in violation of the provisions of Tennessee Code Annotated §7-84-501 Central Business Improvement District Act of 1990 et. seq.

PARTIES

2. Plaintiffs are owners of certain real property in the Downtown CBID as that term is defined in Tennessee Code Annotated §7-84-503(9) and as owners of real

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HAMILTON COUNTY, TENNESSEE

property as that term is defined in **Tennessee Code Annotated §7-84-503(9)** in the Downtown CBID have standing to bring this cause of action pursuant to **Tennessee Code Annotated §7-84-515(a)**.

3. Defendant is a duly incorporated municipality and political subdivision of the State of Tennessee, deriving its powers and authority to operate from the State of Tennessee, and located in Hamilton County, Tennessee, with a duly elected mayor and city council form of government.

JURISDICTION

4. This Court has jurisdiction over this cause of action pursuant to **Tennessee Code Annotated §29-14-102(a)**.

5. All acts complained of occurred within the City of Chattanooga, Hamilton County, Tennessee.

PROCEDURAL HISTORY

6. On June 4, 2019, at defendant's, City of Chattanooga Council meeting, a proposed ordinance came for Public Hearing and Final Reading before the defendant through its duly elected Chattanooga City Council, by *petition* to establish a Downtown CBID pursuant to the provisions of **Tennessee Code Annotated §7-84-501 "Central Business Improvement District Act of 1990 et. seq..** Said petition had previously been filed and approved on first (1st) reading at defendant's City Council meeting held on May 28, 2019 at 6:00 p. m.. The June 4, 2019 City of Chattanooga Council Minutes state: "**An Ordinance to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534.** "An Ordinance came before

the City Council by petition to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534. (Alternate Version)". (A copy of the Proposed Ordinance Alternate Version from the June 4, 2019 6:00 p. m. City of Chattanooga Revised Council Agenda is attached to this Complaint and Marked **Exhibit 2**). A motion was made by defendant's Councilman Anthony Byrd to approve the proposed ordinance; no other council person made a second to the motion. The proposed ordinance on final reading, after public hearing failed for lack of a second to the motion to approve the ordinance as amended. (A copy of the Chattanooga City Council Meeting Minutes of June 4, 2019, is attached to this Complaint and marked **Exhibit 3**).

7. The first (1st) attempt to establish a Downtown CBID by petition failed for lack of a second to a motion to establish a Downtown CBID.

8. Chattanooga City Council Resolution NO. 27969 RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF CHATTANOOGA D. 2. Proceedings in Council Meetings: states in pertinent part that: "Every motion, resolution, or ordinance, must be moved by a Council Member and seconded by another Council Member....Upon failure of a second the Chairperson shall declare the motion failed for lack of a second and the motion shall not be considered further."; which occurred in the instant case.

9. A second (2nd) attempt, by resolution, Resolution NO. 29962, to adopt an ordinance establishing a Downtown Central Business Improvement District with the same boundaries as the first attempt (by petition) to establish a Downtown CBID was

filed by defendant's Councilmen Byrd, Oglesby and Mitchell within one (1) week after failure to establish a Downtown Central Business Improvement District by the previously filed ***petition***. At the City of Chattanooga Council meeting and public hearing on July 30, 2019, at 6:00 p. m., Exhibit 1 came for Public Hearing and Final Reading before defendant's Chattanooga City Council by resolution for an ordinance to establish a Downtown CBID pursuant to the provisions of Tennessee Code Annotated §7-84-501 "Central Business Improvement District Act of 1990 et. seq. On the defendant's July 30, 2019, 6:00 p. m. agenda was **City of Chattanooga Council Revised Agenda item V.a.** states: "**An Ordinance to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534. (Alternate Version) (PUBLIC HEARING)**". After the public hearing a motion was made and second to the motion was made to approve the **Exhibit 1**; said ordinance passed establishing a Downtown CBID (**Exhibit 1**).

10. Tennessee Code Annotated §7-84-511(1) & (2) states in pertinent part that "The establishment of a district shall be initiated in either of two (2) ways, as follows:

- (1) **By a petition.....;** or
- (2) **By adoption of a resolution by the governing body setting forth the same matters as are required to be set forth in the initiating petition.**" (**Emphasis supplied**)

11. Tennessee Code Annotated §7-84-516(c) states that: "The governing body shall be permitted to amend the district boundaries only once in order to permit the adoption of such ordinance, and no initiating petition shall be accepted nor initiating resolution adopted by the governing body with respect to the **same properties** included

in the original or amended proposed central business improvement district for a period of twelve (12) months following the failure of passage of such ordinance. (*Emphasis supplied*)

12. The defendant's first (1st) attempt to establish a Downtown CBID by *petition* and then adoption on July 30, 2019, by *resolution* has the exact same property boundaries. (See Sec. 11-525 of Exhibit 1 and Exhibit 2).

13. The adoption of **Exhibit 1**, by defendant's *resolution* second (2nd) attempt establishing the Downtown CBID containing the same properties/boundaries, as in the first attempt by *petition* to establish the Downtown CBID, before the expiration of a period of twelve (12) months with the same identical boundaries in both, is a direct violation of the provisions of Tennessee Code Annotated §7-84-516(c).

14. Tennessee Code Annotated §7-84-514 states in pertinent part that: "Such notice "Public Hearing" shall also be given by mail to **each owner** or real property within the proposed district." (*Emphasis supplied*)

15. As stated earlier Tennessee Code Annotated §7-84-503(9) defines an owner as "'Owner" means record owner in fee, or a duly authorized representative."

16. The following plaintiffs as owners of real property as that term is defined in Tennessee Code Annotated §7-84-503(9) located within the Downtown CBID did not receive and upon information and belief were not mailed notice of the final reading and public hearing held on July 30, 2019, by defendant: Charles D. Paty, Kem Alexander, Ralph D. Paty, and Marion Gaye Paty Wade (Attached are Affidavits of the plaintiffs who did not receive and on information and belief were not mailed notice of the public hearing as required by Tennessee Code Annotated §7-84-514 and marked **Collective**

Exhibit 4 [4 pages]). Also attached is the affidavit of Paul Smith, **Exhibit 5**, duly authorized representative of Chattanooga Masonic Temple, which organization owns real property within the Downtown CBID, which organization did not receive a notice by mail of the public hearing held on July 30, 2019 and upon information and belief was not mailed a notice of the public hearing by defendant.

17. Because the pertinent language of **Tennessee Code Annotated §7-84-514** is a mandatory requirement on the defendant and defendant has failed to follow the mandatory mail notice requirement of **Tennessee Code Annotated §7-84-514**, defendant's ordinance establishing a Downtown CBID is null and void.

18. **Tennessee Code Annotated §7-84-517** states mandatory requirements that the establishment ordinance shall include.

19. **Tennessee Code Annotated §7-84-517(3)** states that the establishment ordinance shall include: "A statement that the properties in the area established by the ordinance shall be subject to the provisions of the special assessment."

20. Nowhere within the language of the ordinance adopting a Downtown CBID is included the statement mandated by **Tennessee Code Annotated §7-84-517(3)**.

21. The failure of the ordinance to include the statement mandated by **Tennessee Code Annotated §7-84-517(3)** renders the ordinance void, voidable and ineffectual.

22. The failure to include this mandatory statement has the effect of owners of real property located within the Downtown CBID not having to comply with the provisions of the special assessment of the ordinance which was passed, which is the subject of this cause of action.

23. Tennessee Code Annotated §7-84-503(1) states: “**Assessed value**” means value as assessed for municipal property tax purposes.” Defendant’s, The City of Chattanooga City Charter §6.66 states that: “For the purpose of fixing and determining the valuation for tax purposes of real and personal property within the City of Chattanooga, Tennessee, the valuation of said property as assessed by the tax assessor of Hamilton County, Tennessee, shall govern, and the valuation assessed by said tax assessor, and **no other valuation**, shall be the valuation upon which the said city may **assess**, levy and collect taxes on real and personal property within said city.”
(Emphasis supplied)

24. Section D of RESOLUTION NO. 29962 and Sec. 11-531 of EXHIBIT B of RESOLUTION NO. 29962 and Sec. 11-531(B)-(D) provides that the calculation of the special assessment to be imposed on real property located with the Downtown CBID is be based on a mathematical formula using the square footage of property and buildings. Which formula is not the assessed value as determined by the tax assessor of Hamilton County, Tennessee. This method of determining the value for the special assessment does not follow the express definition of Tennessee Code Annotated §7-84-503(1) and the defendant’s City Charter §6.66. and the definition of “Assessed value” set out in defendant’s ordinance (Exhibit 1).

25. Nowhere in Tennessee Code Annotated §7-84-501 “Central Business Improvement District Act of 1990 et. seq. does it state that the special assessment can be based on square footage of a building. Under defendant’s City Charter assessments must be based on tax assessments; not the square footage of a lot or building structure.

26. **Tennessee Code Annotated §7-84-512** states in pertinent part that: "Each district shall be of such size and form as to include all properties that, in the judgment of the governing body, shall be benefited by the improvements and services that are proposed to be made and provided in or for such district."

27. **Tennessee Code Annotated §7-84-516(c)** states in pertinent part that: "The governing body shall be permitted to amend the district boundaries only once in order to permit the adoption of such ordinance..."

28. **Tennessee Code Annotated §7-84-517(2)** requires that the establishment ordinance adopted by the governing body of the municipality shall include: "A description of the boundaries of the district as set out in the original or amended initiating petition or initiating resolution."

29. **Sec. 11-531(F)** of defendant's ordinance establishing the Downtown CBID allows for non-profit/501(c)(3) organizations that own real property located within the Downtown CBID to apply on a yearly basis to seek reductions and/or waivers "opt out" of the special assessment. With no rational basis for any other owner of real property in the Downtown CBID to do the same.

30. By allowing an opt out method for the non-profit/501(c)(3) the provisions of **Tennessee Code Annotated §7-84-512, §7-84-516(c), and §7-84-517(2)** are being circumvented which in effect modifies the Downtown CBID boundaries which have been established by adoption of Exhibit 1 establishing the Downtown CBID.

31. Defendant failed to attach to Exhibit 1 the Map of the Boundary of the Downtown CBID making it difficult for an owner of real property supposedly located

within the boundaries established by Exhibit 1 from ascertaining whether or not an owner of real property is actually located within the boundaries established by Exhibit 1.

PREMISES CONSIDERED, PLAINTIFFS PRAY THAT:

1. Service be made on the defendant, City of Chattanooga, Tennessee, through defendant's attorney.
2. At the hearing in this cause Ordinance NO.: 13487 (Exhibit 1) adopted by the defendant An Ordinance to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534. (Alternate Version) be declared null and void pursuant to **Tennessee Code Annotated §29-14-101 et. seq.** for defendant's failure to follow the mandatory language and procedural requirements for proper establishment of a Central Business Improvement District as set out in **Tennessee Code Annotated §7-84-501 "Central Business Improvement District Act of 1990 et. seq.**
3. Declare Exhibit 1 null and void because of defendant's violation of the express provision of Tennessee Code Annotated §7-84-516(c) for initiating by resolution to adopt an ordinance (Exhibit 1) before the expiration a period of twelve (12) months following the failure of passage of such ordinance by petition which occurred in this case.
4. Exhibit 1 be declared null and void for defendant's failure to properly mail notice of the public hearing scheduled for July 30, 2019 at 6:00 p. m. to owners of real property located within the Downtown Central Improvement District.
5. Owners of real property located within the Downtown Central Improvement District are not subject to the provisions of the special assessment stated in Exhibit 1

because of defendant's failure to include said mandatory requirement in the language of Exhibit 1.

6. The formula/method used by defendant for calculating the special assessment to be imposed on the owners of real property located within the Downtown CBID stated in Sec. 11-531(B)-(D) in Exhibit 1 is not in keeping with the provisions of Tennessee Code Annotated §7-84-501 "Central Business Improvement District Act of 1990 et. seq. and the defendant's own City Charter §6.66, rendering Exhibit 1 null and void or in the alternative the defendant be ordered to amend Sec. 11-531(B)-(D) of Exhibit 1 to calculate the special assessment on Assessed Value as that term is defined in Tennessee Code Annotated §7-84-503(1) for municipal tax purposes, defendant's own City Charter §6.66 and Sec. 11-528 of Exhibit 1 and not and formula based on square footage of a lot or building and linear foot of Lot Frontage on roadways.

7. Declare all owners of real property located within the Downtown CBID shall be subject to the special assessment and shall not be allowed to at any time apply for and be exempted from paying the special assessment as this will in effect modify the boundaries established by Exhibit 1.

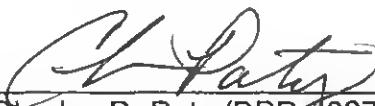
8. Declare Exhibit 1 null and void for defendant's failure to attach a Map to Exhibit 1.

9. Costs for bringing this action be taxed to the defendant.

10. General relief.

PATY, RYMER & ULIN, P.C.

BY:


Charles D. Paty (BPR #06759)
Pro Se & Attorneys for Plaintiffs
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ORDINANCE NO. 13487

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, BY ADDING A NEW CHAPTER 11, ARTICLE XXI,
DOWNTOWN CENTRAL BUSINESS IMPROVEMENT
DISTRICT (DOWNTOWN CBID), SECTIONS 11-525
THROUGH 11-534.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, be amended by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Section 11-525 through 11-534, as follows

DOWNTOWN CENTRAL BUSINESS
IMPROVEMENT DISTRICT
(DOWNTOWN CBID)

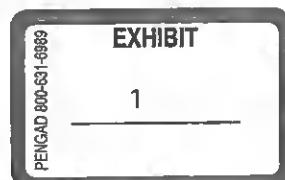
Sec. 11-525. District Created; Boundary.

There is established and created the Chattanooga Downtown Central Business Improvement District, pursuant to the Central Business Improvement District Act of 1990, under T.C.A., Title 7, Chapter 84, Part 5, which shall include all properties within that area of the city bounded and generally described as follows:

A portion of Downtown Chattanooga bounded roughly by the Tennessee River to the North, US-27 to the West, 11th Street to the South, and primarily Cherry Street and Georgia Avenue to the East. The boundary shall extend through the centerline of 11th Street, Cherry Street, Georgia Avenue, and any other thoroughfare along its exterior boundaries as illustrated on the Map set out at the end of this Section.

Sec. 11-526. Purposes and Mission.

A. The City Council hereby finds and declares that the establishment of the Downtown CBID will promote the successful and continued revitalization of Downtown Chattanooga, thereby furthering the health, safety, and general economic welfare of Downtown Chattanooga.



B. The purpose and mission of the Downtown CBID is hereby declared to be: To undertake and provide an enhanced level of programs and services, not currently provided by the City government of Chattanooga, which will help maintain the Downtown CBID area as a clean, safe and vibrant place to work, live, shop, play and invest.

Sec. 11-527. Liberal Construction.

This ordinance, being necessary to secure and preserve the public health, safety, convenience and welfare, shall be liberally construed to effectuate its purposes.

Sec. 11-528. Definitions.

As used in this ordinance, unless a contrary meaning clearly appears:

“*Assessed value*” means value as assessed for municipal tax purposes.

“*CBID Board*” or “*Board*” means the board created herein to serve as the District Management Corporation.

“*City*” means the City of Chattanooga, Tennessee.

“*Commercial Property*” means any commercial property, multi-family residences, apartments, or property owned by an institutional non-profit entity located in the District

“*County*” means Hamilton County, Tennessee.

“*District*” or “*Downtown Central Business Improvement District*” or “*Downtown CBID*” means the central business improvement district created by this ordinance.

“*District Management Corporation*” means the board or organization created or the organization appointed to act as an advisory board for the purpose of making and carrying out recommendations for the use of special assessment revenues, and for the purpose of administering activities within and for the District and the provision of services and projects within and for the District.

“*Initiating petition*” means the petition filed in the Office of the City Clerk requesting the establishment of the Downtown CBID.

“*Owner*” means the record owner of real property in fee or a representative of such owner duly authorized to act for and on behalf of said owner.

“*Residential Condominium*” means an estate in real property, created under the Tennessee Horizontal Property Act or the Tennessee Condominium Act of 2008, consisting of ownership of a fractional undivided fee interest in common with other unit owners in common elements, together a separate fee interest in a unit and all appurtenant rights, title, and interests.

Sec. 11-529. District Management Corporation.

A. There is hereby authorized and established a CBID Board to serve as the District Management Corporation for the purpose of administering the special assessment revenues and the activities within and for the Downtown CBID, the making of improvements within and for the Downtown CBID, and the provision of services and projects within and for the Downtown CBID.

B. The CBID Board shall consist of at least nine (9) but no more than fifteen (15) members. Three (3) members shall be appointed as provided in Subsections C and D below. The CBID Board shall select members to serve staggered, three-year terms, limited to serving two (2) consecutive full terms. These CBID Board members shall be Owners or Lessees of Commercial Property within the district. At least two (2) of these CBID Board members shall be large property Owners (an Owner of a major hotel property or commercial office building in the district) and at least two (2) shall be small property Owners (an Owner of commercial property other than major hotel or office buildings in the District). At least two (2) members shall be commercial tenants (defined as any lessee of commercial property within the district) and at least one (1) member shall be a Residential Condominium Owner in the District. At least one CBID Board member must own property North of 4th Street, and at least one CBID Board member shall own property South of 4th Street. The seats shall be filled at an annual meeting upon nomination by the outgoing CBID Board members.

C. The Speaker of the Senate of the State of Tennessee shall appoint the Senator whose senate district includes the majority of the area contained within the Downtown CBID to serve as an ex officio member, and the Speaker of the House of Representatives of the State of Tennessee shall appoint the representative whose house district includes the majority of the area contained within the Downtown CBID as an ex officio member. The ex officio members shall serve for the term for which they are elected and shall not be counted in determining the presence of a quorum.

D. The member of City Council whose council district represents the majority of the CBID area, and/or his/her designee, shall serve as a member of the CBID Board for the term for which they are elected.

E. Vacancies on the CBID Board for elected members shall be filled by the remaining Board members present and voting to fill the vacancy.

Sec. 11-530. District Management Corporation Powers.

A. In furtherance and not in limitation of the general powers conferred upon a central business improvement district by Chapter 84 of Title 7 of the Tennessee Code Annotated, and in keeping with the purposes of the Downtown CBID set forth herein, it is expressly provided that the District Management Corporation shall have the following powers as follows:

1. Maintenance and cleaning services;
2. Hospitality services;

3. Streetscape and landscape programs;
4. Communications and marketing, district advocacy and management;
5. To provide services for the improvement and operation of the Downtown CBID and to supplement those provided by the City Government, as follows:
 - a. Promoting and marketing;
 - b. Advertising;
 - c. Health and sanitation;
 - d. Public safety;
 - e. Elimination of problems related to traffic and parking;
 - f. Security services;
 - g. Recreation;
 - h. Cultural enhancements;
 - i. Activities in support of business or residential recruitment, retention and management development;
 - j. Aesthetic improvements, including the decoration, restoration or renovation of any public space or of building facades and exteriors in public view which confer a public benefit;
 - k. Professional management, planning and promotion of the district;
 - l. Furnishing of music in any public place;
 - m. Design assistance;
 - n. Consulting with respect to planning, management, and development activities; and
 - o. Such other services as are authorized by Tennessee Code Annotated § 7-84-520.
6. To enter into contracts and agreements with other persons or entities.
7. To hire employees or retain agents, engineers, architects, planners, consultants, attorneys and accountants.
8. To acquire, construct, install and operate public improvements contemplated by this ordinance and all property rights or interests incidental or appurtenant thereto, and to dispose of real and personal property and any interest therein including leases and easements in connection therewith.
9. To manage, control, and supervise:
 - a. All the business and affairs of the Downtown CBID
 - b. The acquisition, construction, and installation and operation of public improvements within the Downtown CBID; and
 - c. The operation of the Downtown CBID services therein.

10. To construct and install improvements across and along any public street, alley, highway, stream of water or water course in accordance with state and local laws, rules, and regulations.
11. To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this section.
12. Other proposed uses of special assessment revenue within the Downtown CBID including employing persons to perform or contracting for the performance of such services as office administration, bookkeeping, engineering and architectural services, urban planning, legal services, accounting and auditing services and other similar services.

B. All services to the Downtown CBID listed above shall be provided by the District Management Corporation as a service to and in support of the City or County government and such services are to be paid for out of revenues from the special assessment. In carrying out these responsibilities, the District Management Corporation must comply with all applicable provisions of laws, including Chapter 84 of Title 7 of Tennessee Code Annotated, all City resolutions and ordinances and all regulations lawfully imposed by the state auditor or other state agencies.

C. The special assessment shall be used to supplement and not to pay for the same level of services provided by the City or County government within the Downtown CBID. In no event will the level of governmental services provided to the Downtown CBID be decreased as a result of the enhanced level of services provided through the special assessment revenues. The City shall produce an annual report documenting the baseline services provided by the City in the Downtown CBID area, which report shall be delivered to the CBID Board and made publicly available.

D. Penalty and interest in the amount permitted by state law are authorized to be added to any such assessment or installment thereof not paid on or before the date prescribed by the District Management Corporation.

Sec. 11-531. Estimated Costs and Rate of Levy; Special Assessment Procedure.

A. The estimated cost of the initially proposed improvements, service projects and other permitted uses of special assessment revenues is One Million and No/100 Dollars (\$1,000,000.00).

B. A special assessment shall be collected from all real property within the Downtown CBID in accordance with this Section exclusively for the Downtown CBID, and not for the general tax coffers of the City or County. Notwithstanding the foregoing, or anything contained herein to the contrary, all property owned directly by the City and County shall be exempt from the special assessment in accordance with Tennessee Code Annotated Section 7-84-523. This Downtown CBID will utilize the special assessments which distinguish between (i) Commercial Property and (ii) Residential Condominiums. Commercial Property shall be assessed under the following formula: \$0.09 per square foot of the greater of (i) lot square footage or (ii) building square footage

PLUS \$4.95 per linear foot of Lot Frontage on roadways as these values are listed on the Hamilton County Geographic Information Systems and by the Hamilton County Assessor's Office.

The formula for a Commercial Property is thus: $\$0.09 \text{ (A)} + \$4.95 \text{ (B)} = \text{Total BID Assessment}$.

In the first year of the BID, the estimated annual assessments for properties will be as follows:

Total Commercial Property Rate	\$0.09 per square foot of the greater of lot or building square footage PLUS \$4.95 per linear foot of Lot Frontage on roadways
Residential Condominium (Flat Rate; per unit)	\$150.00

C. "Frontage" refers to parcel frontage on all adjoining roadways. All parcel sides that front a street which is serviced by the Downtown CBID are covered, including those located along the exterior boundaries of the Downtown CBID.

D. The Downtown BID assessment for a Commercial Property in a mixed-use building shall be calculated by multiplying \$0.09 by the greater of lot or building square footage. The lot square footage for Commercial Property in a mixed-use building shall be calculated by multiplying the total lot square footage by a fraction, the numerator of which shall be the Commercial Property Owner's share of the building square footage, and the denominator which shall be the total building square footage. This will be added to the Owner's Frontage calculation, which shall be calculated by multiplying \$4.95 by the Owner's share of the Frontage. The Owner's share of the Frontage is calculated by multiplying the total Frontage by a fraction, the numerator of which shall be the Commercial Property Owner's building square footage, and the denominator of which shall be the total building square footage. In the event only one Commercial Property Owner borders a roadway in a mixed-use building, that Commercial Property Owner shall be responsible for all Frontage along such roadway.

The formula for a Commercial Property in a mixed-use building is thus:

$\$0.09 \text{ (greater of Owner's share of lot or building square footage)} + \$4.95 \text{ (Owner's share of Frontage)} = \text{BID Property Assessment for Commercial Properties in mixed-use buildings}$.

E. Parking garages shall be assessed based on Frontage and lot size, rather than building size. In the event a parcel is improved by a building and a parking garage, the square footage of the parking garage shall be deducted from the square footage of the building for the purposes of the building's special assessment.

F. Non-profit organizations that own real property located within the Downtown CBID may seek reductions and/or waivers of the special assessment on a case-by-case basis each year

provided that: (i) the Owner is an institutional nonprofit organization registered under Section 501(c)(3) of the US Internal Revenue Code, (ii) the property is exempt from property taxes under T.C.A. §67-5-212, and (iii) the Owner demonstrates substantial financial and/or economic hardship to the CBID Board, as determined by the CBID Board in its sole discretion.

G. The CBID Board may determine annual adjustments in the special assessment rates at its sole discretion consistent with increases in program services and costs; however, in no event shall annual assessments increase by more than five percent (5%) per annum. A change in the rate of levy of such special assessment may be initiated only by a resolution from the CBID Board. Special assessments shall be imposed and collected annually as set forth hereinabove. Changes in the rate or additions to the rate of the special assessment, upon approval by the CBID Board, may be made only on an annual basis and through a public hearing before the City Council in accordance with T.C.A. §7-84-522(f).

H. Beginning in 2019, special assessments shall be levied against all real property within the Downtown CBID pursuant to a special assessment roll of all Owners within the District as shown in the records of the Assessor of Property for the City Government of Chattanooga and Hamilton County.

I. Notice of the special assessment shall be issued simultaneously with tax notices for regular Hamilton County and City of Chattanooga real property taxes, and revenues from the special assessment shall be collected by the Hamilton County Trustee to the extent it is empowered by this ordinance.

J. All CBID Board meetings during the term of this Ordinance shall comply with the Open Meeting requirements of Tennessee Code Annotated Section 8-44-107.

K. The CBID shall be subject to audits pursuant to Ordinance Section 2-510 or other applicable ordinances of the City of Chattanooga every year during the term of this Ordinance before the annual City budget is approved.

Sec. 11-532. Annual Budget.

The CBID Board shall annually submit to the City Council a financial report and a written report of its activities for the preceding year together with a proposed budget for the next year. The annual budget shall include a projection of revenues from the special assessment and a projection of expenditures for projects, services and activities of the CBID Board and shall be reviewed and approved by the City Council, or if not approved shall be returned to the CBID Board for revision and resubmission until the City Council shall approve the annual budget.

Sec. 11-533. PILOT.

During the term of a payment in lieu of ad valorem taxes (PILOT) or tax increment financing (TIF) agreement for real property in the Downtown CBID, the CBID Board may, by resolution, abate the special assessment such that the assessment is based on the assessed value prior to redevelopment of the real property. At the request of the Mayor, the CBID Board shall place the assessment abatement on its agenda and shall consider the assessment abatement at its next regularly scheduled meeting. Failure of the CBID Board to make a

decision on the assessment abatement within thirty (30) days of the abatement first appearing on the CBID Board's agenda shall constitute an approval. After the CBID Board makes its decision, any review shall be provided by a court of competent jurisdiction pursuant to T.C.A. § 27-8-101 *et seq.*, T.C.A. § 27-9-101 *et seq.*, or T.C.A. § 29-14-101, *et seq.*

Sec. 11-534. Term.

A. On the fifth (5th) anniversary of the formation of the Downtown CBID, the CBID Board will complete formal evaluation to determine whether the services and assessment methods are consistent with the needs of the District. Pursuant to T.C.A. § 7-84-529, the Downton CBID may be dissolved upon written petition of the Owners holding seventy-five percent (75%) of the assessed value and fifty percent (50%) of the Owners of record.

B. On the tenth (10th) anniversary of the formation of the Downtown CBID the CBID Board will determine if the Downtown CBID should continue in existence or pursue dissolution in accordance with T.C.A. § 7-84-529.

SECTION 2. BE IT FURTHER ORDAINED, that the District Management Corporation shall indemnify and hold the City harmless from and against all loss, damage, or expense resulting from or arising directly out of the provisions of services or programs provided by the District Management Corporation within the District.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect immediately from and after its passage.

Passed on second and final reading: July 30, 2019



CHAIRPERSON

APPROVED: DISAPPROVED: _____



MAYOR

First Reading: _____
Second Reading: _____
Third Reading: _____

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, BY ADDING A NEW CHAPTER 11, ARTICLE XXI,
DOWNTOWN CENTRAL BUSINESS IMPROVEMENT
DISTRICT (DOWNTOWN CBID), SECTIONS 11-525
THROUGH 11-534.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, be amended by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Section 11-525 through 11-534, as follows

DOWNTOWN CENTRAL BUSINESS
IMPROVEMENT DISTRICT
(DOWNTOWN CBID)

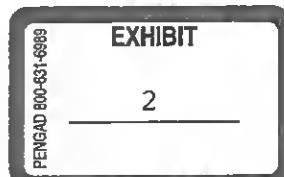
Sec. 11-525. District Created; Boundary.

There is established and created the Chattanooga Downtown Central Business Improvement District, pursuant to the Central Business Improvement District Act of 1990, under T.C.A., Title 7, Chapter 84, Part 5, which shall include all properties within that area of the city bounded and generally described as follows:

A portion of Downtown Chattanooga bounded roughly by the Tennessee River to the North, US-27 to the West, 11th Street to the South, and primarily Cherry Street and Georgia Avenue to the East. The boundary shall extend through the centerline of 11th Street, Cherry Street, Georgia Avenue, and any other thoroughfare along its exterior boundaries as illustrated on the Map set out at the end of this Section.

Sec. 11-526. Purposes and Mission.

A. The City Council hereby finds and declares that the establishment of the Downtown CBID will promote the successful and continued revitalization of Downtown Chattanooga, thereby furthering the health, safety, and general economic welfare of Downtown Chattanooga.



B. The purpose and mission of the Downtown CBID is hereby declared to be: To undertake and provide an enhanced level of programs and services, not currently provided by the City government of Chattanooga, which will help maintain the Downtown CBID area as a clean, safe and vibrant place to work, live, shop, play and invest.

Sec. 11-527. Liberal Construction.

This ordinance, being necessary to secure and preserve the public health, safety, convenience and welfare, shall be liberally construed to effectuate its purposes.

Sec. 11-528. Definitions.

As used in this ordinance, unless a contrary meaning clearly appears:

“Assessed value” means value as assessed for municipal tax purposes.

“CBID Board” or *“Board”* means the board created herein to serve as the District Management Corporation.

“City” means the City of Chattanooga, Tennessee.

“Commercial Property” means any commercial property, multi-family residences, apartments, or property owned by an institutional non-profit entity located in the District

“County” means Hamilton County, Tennessee.

“District” or *“Downtown Central Business Improvement District”* or *“Downtown CBID”* means the central business improvement district created by this ordinance.

“District Management Corporation” means the board or organization created or the organization appointed to act as an advisory board for the purpose of making and carrying out recommendations for the use of special assessment revenues, and for the purpose of administering activities within and for the District and the provision of services and projects within and for the District.

“Initiating petition” means the petition filed in the Office of the City Clerk requesting the establishment of the Downtown CBID.

“Owner” means the record owner of real property in fee or a representative of such owner duly authorized to act for and on behalf of said owner.

“Residential Condominium” means an estate in real property, created under the Tennessee Horizontal Property Act or the Tennessee Condominium Act of 2008, consisting of ownership of a fractional undivided fee interest in common with other unit owners in common elements, together a separate fee interest in a unit and all appurtenant rights, title, and interests.

Sec. 11-529. District Management Corporation.

A. There is hereby authorized and established a CBID Board to serve as the District Management Corporation for the purpose of administering the special assessment revenues and the activities within and for the Downtown CBID, the making of improvements within and for the Downtown CBID, and the provision of services and projects within and for the Downtown CBID.

B. The CBID Board shall consist of at least nine (9) but no more than fifteen (15) members. Three (3) members shall be appointed as provided in Subsections C and D below. The CBID Board shall select members to serve staggered, three-year terms, limited to serving two (2) consecutive full terms. These CBID Board members shall be Owners or Lessees of Commercial Property within the district. At least two (2) of these CBID Board members shall be large property Owners (an Owner of a major hotel property or commercial office building in the district) and at least two (2) shall be small property Owners (an Owner of commercial property other than major hotel or office buildings in the District). At least two (2) members shall be commercial tenants (defined as any lessee of commercial property within the district) and at least one (1) member shall be a Residential Condominium Owner in the District. At least one CBID Board member must own property North of 4th Street, and at least one CBID Board member shall own property South of 4th Street. The seats shall be filled at an annual meeting upon nomination by the outgoing CBID Board members.

C. The Speaker of the Senate of the State of Tennessee shall appoint the Senator whose senate district includes the majority of the area contained within the Downtown CBID to serve as an ex officio member, and the Speaker of the House of Representatives of the State of Tennessee shall appoint the representative whose house district includes the majority of the area contained within the Downtown CBID as an ex officio member. The ex officio members shall serve for the term for which they are elected and shall not be counted in determining the presence of a quorum.

D. The member of City Council whose council district represents the majority of the CBID area, and/or his/her designee, shall serve as a member of the CBID Board for the term for which they are elected.

E. Vacancies on the CBID Board for elected members shall be filled by the remaining Board members present and voting to fill the vacancy.

Sec. 11-530. District Management Corporation Powers.

A. In furtherance and not in limitation of the general powers conferred upon a central business improvement district by Chapter 84 of Title 7 of the Tennessee Code Annotated, and in keeping with the purposes of the Downtown CBID set forth herein, it is expressly provided that the District Management Corporation shall have the following powers as follows:

1. Maintenance and cleaning services;
2. Hospitality services;

3. Streetscape and landscape programs;
4. Communications and marketing, district advocacy and management;
5. To provide services for the improvement and operation of the Downtown CBID and to supplement those provided by the City Government, as follows:
 - a. Promoting and marketing;
 - b. Advertising;
 - c. Health and sanitation;
 - d. Public safety;
 - e. Elimination of problems related to traffic and parking;
 - f. Security services;
 - g. Recreation;
 - h. Cultural enhancements;
 - i. Activities in support of business or residential recruitment, retention and management development;
 - j. Aesthetic improvements, including the decoration, restoration or renovation of any public space or of building facades and exteriors in public view which confer a public benefit;
 - k. Professional management, planning and promotion of the district;
 - l. Furnishing of music in any public place;
 - m. Design assistance;
 - n. Consulting with respect to planning, management, and development activities; and
 - o. Such other services as are authorized by Tennessee Code Annotated § 7-84-520.
6. To enter into contracts and agreements with other persons or entities.
7. To hire employees or retain agents, engineers, architects, planners, consultants, attorneys and accountants.
8. To acquire, construct, install and operate public improvements contemplated by this ordinance and all property rights or interests incidental or appurtenant thereto, and to dispose of real and personal property and any interest therein including leases and easements in connection therewith.
9. To manage, control, and supervise:
 - a. All the business and affairs of the Downtown CBID
 - b. The acquisition, construction and installation and operation of public improvements within the Downtown CBID; and
 - c. The operation of the Downtown CBID services therein.

10. To construct and install improvements across and along any public street, alley, highway, stream of water or water course in accordance with state and local laws, rules, and regulations.
11. To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this section.
12. Other proposed uses of special assessment revenue within the Downtown CBID including employing persons to perform or contracting for the performance of such services as office administration, bookkeeping, engineering and architectural services, urban planning, legal services, accounting and auditing services and other similar services.

B. All services to the Downtown CBID listed above shall be provided by the District Management Corporation as a service to and in support of the City or County government and such services are to be paid for out of revenues from the special assessment. In carrying out these responsibilities, the District Management Corporation must comply with all applicable provisions of laws, including Chapter 84 of Title 7 of Tennessee Code Annotated, all City resolutions and ordinances and all regulations lawfully imposed by the state auditor or other state agencies.

C. The special assessment shall be used to supplement and not to pay for the same level of services provided by the City or County government within the Downtown CBID. In no event will the level of governmental services provided to the Downtown CBID be decreased as a result of the enhanced level of services provided through the special assessment revenues. The City shall produce an annual report documenting the baseline services provided by the City in the Downtown CBID area, which report shall be delivered to the CBID Board and made publicly available.

D. Penalty and interest in the amount permitted by state law are authorized to be added to any such assessment or installment thereof not paid on or before the date prescribed by the District Management Corporation.

Sec. 11-531. Estimated Costs and Rate of Levy; Special Assessment Procedure.

A. The estimated cost of the initially proposed improvements, service projects and other permitted uses of special assessment revenues is One Million and No/100 Dollars (\$1,000,000.00).

B. A special assessment shall be collected from all real property within the Downtown CBID in accordance with this section exclusively for the Downtown BID and not for the general tax coffers of the City or County. This Downtown CBID will utilize the special assessments which distinguish between (i) Commercial Property and (ii) Residential Condominiums.

Commercial Property shall be assessed under the following formula: \$0.09 per square foot of the greater of (i) lot square footage or (ii) building square footage PLUS \$4.95 per linear foot of Lot Frontage on roadways as these values are listed on the Hamilton County Geographic Information Systems and by the Hamilton County Assessor's Office.

The formula for a Commercial Property is thus: \$0.09 (A) + \$4.95 (B) = Total BID Assessment.

In the first year of the BID, the estimated annual assessments for properties will be as follows:

Total Commercial Property Rate	\$0.09 per square foot of the greater of lot or building square footage PLUS \$4.95 per linear foot of Lot Frontage on roadways
Residential Condominium (Flat Rate; per unit)	\$150.00

C. "Frontage" refers to parcel frontage on all adjoining roadways. All parcel sides that front a street which is serviced by the Downtown CBID are covered, including those located along the exterior boundaries of the Downtown CBID.

D. The Downtown BID assessment for a Commercial Property in a mixed-use building shall be calculated by multiplying \$0.09 by the greater of lot or building square footage. The lot square footage for Commercial Property in a mixed-use building shall be calculated by multiplying the total lot square footage by a fraction, the numerator of which shall be the Commercial Property Owner's share of the building square footage, and the denominator which shall be the total building square footage. This will be added to the Owner's Frontage calculation, which shall be calculated by multiplying \$4.95 by the Owner's share of the Frontage. The Owner's share of the Frontage is calculated by multiplying the total Frontage by a fraction, the numerator of which shall be the Commercial Property Owner's building square footage, and the denominator of which shall be the total building square footage. In the event only one Commercial Property Owner borders a roadway in a mixed-use building, that Commercial Property Owner shall be responsible for all Frontage along such roadway.

The formula for a Commercial Property in a mixed-use building is thus:

\$0.09 (greater of Owner's share of lot or building square footage) + \$4.95 (Owner's share of Frontage) = BID Property Assessment for Commercial Properties in mixed-use buildings.

E. Parking garages shall be assessed based on Frontage and lot size, rather than building size. In the event a parcel is improved by a building and a parking garage, the square footage of the parking garage shall be deducted from the square footage of the building for the purposes of the building's special assessment.

F. Non-profit organizations that own real property located within the Downtown CBID may seek reductions and/or waivers of the special assessment on a case-by-case basis each year provided that: (i) the Owner is an institutional nonprofit organization registered under Section 501(c)(3) of the US Internal Revenue Code, (ii) the property is exempt from property taxes under

T.C.A. §67-5-212, and (iii) the Owner demonstrates substantial financial and/or economic hardship to the CBID Board, as determined by the CBID Board in its sole discretion.

G. Any property located in the Downtown CBID subject to a payment in lieu of ad valorem taxes (PILOT) agreement shall be subject to the special assessment; however, such special assessment maybe abated upon written approval of the City Council as described herein below. Such abatement shall cease if the PILOT agreement is terminated for any reason.

H. The CBID Board may determine annual adjustments in the special assessment rates at its sole discretion consistent with increases in program services and costs; however, in no event shall annual assessments increase by more than five percent (5%) per annum. A change in the rate of levy of such special assessment may be initiated only by a resolution from the CBID Board. Special assessments shall be imposed and collected annually as set forth hereinabove. Changes in the rate or additions to the rate of the special assessment, upon approval by the CBID Board, may be made only on an annual basis and through a public hearing before the City Council in accordance with T.C.A. §7-84-522(f).

I. Beginning in 2019, special assessments shall be levied against all real property within the Downtown CBID pursuant to a special assessment roll of all Owners within the District as shown in the records of the Assessor of Property for the City Government of Chattanooga and Hamilton County.

J. Notice of the special assessment shall be issued simultaneously with tax notices for regular Hamilton County and City of Chattanooga real property taxes, and revenues from the special assessment shall be collected by the Hamilton County Trustee the extent it is empowered by this ordinance.

Sec. 11-532. Annual Budget.

The CBID Board shall annually submit to the City Council a financial report and a written report of its activities for the preceding year together with a proposed budget for the next year. The annual budget shall include a projection of revenues from the special assessment and a projection of expenditures for projects, services and activities of the CBID Board and shall be reviewed and approved by the City Council, or if not approved shall be returned to the CBID Board for revision and resubmission until the City Council shall approve the annual budget.

Sec. 11-533. PILOT.

During the term of a payment in lieu of ad valorem taxes (PILOT) or tax increment financing (TIF) agreement for real property in the Downtown CBID, City Council may, by resolution, abate the special assessment such that the assessment is based on the assessed value prior to redevelopment of the real property. Prior to City Council's consideration of the assessment abatement and at the request of the Mayor or the Mayor's designee, the CBID Board shall place the assessment abatement on its agenda and shall consider the assessment abatement at its next regularly scheduled meeting. The CBID Board shall make a recommendation to City Council for approval or denial of the assessment abatement. Failure of the CBID Board to make a recommendation on the assessment abatement within thirty (30) days of the abatement first appearing on the CBID Board's agenda shall constitute an approval. After the CBID Board makes

its recommendation, the assessment abatement shall be considered by City Council at its next regularly scheduled public meeting. If the assessment abatement is approved by City Council, the assessment abatement shall continue for the term of the PILOT or TIF agreement; provided, however, that the assessment abatement shall cease if the PILOT or TIF agreement is terminated for any reason.

Sec. 11-534. Term.

A. On the fifth (5th) anniversary of the formation of the Downtown CBID, the CBID Board will complete formal evaluation to determine whether the services and assessment methods are consistent with the needs of the District. Pursuant to T.C.A. § 7-84-529, the Downtown CBID may be dissolved upon written petition of the Owners holding seventy-five percent (75%) of the assessed value and fifty percent (50%) of the Owners of record.

B. On the tenth (10th) anniversary of the formation of the Downtown CBID the CBID Board will determine if the Downtown CBID should continue in existence or pursue dissolution in accordance with T.C.A. § 7-84-529.

SECTION 2. BE IT FURTHER ORDAINED, that the District Management Corporation shall indemnify and hold the City harmless from and against all loss, damage, or expense resulting from or arising out of the provisions of services or programs provided by the District Management Corporation within the District.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: _____

CHAIRPERSON

APPROVED: _____ DISAPPROVED: _____

MAYOR

PAN/mem/ALT/v9/06.04.2019



City Council Building
Chattanooga, Tennessee
COUNCIL MEETING MINUTES

June 4, 2019
6:00 PM

CALL TO ORDER

Council Chairman Erskine Oglesby called the meeting to order with Vice-Chairman Chip Henderson and Councilpersons Carol Berz, Anthony Byrd, Demetrus Coonrod, Russell Gilbert, Darrin Ledford, Jerry Mitchell and Ken Smith. Phil Noblett, City Attorney, and Nicole Gwyn, Council Clerk, were also present.

PLEDGE OF ALLEGIANCE

Councilman Henderson led the Assembly in the Pledge of Allegiance and read James 3:17 of the Bible prior to giving the invocation.

APPROVAL OF LAST MINUTES

On motion of Councilman Gilbert and seconded by Councilman Ledford, the minutes of the last meeting (May 28, 2019) were approved as published.

PUBLIC HEARING - *Downtown Central Business Improvement District (BID)*

Attorney Noblett read the rules of the hearing. Chairman Oglesby then opened the floor to Kim White of River City to make introductory remarks. Ms. White yielded to former mayor Jon Kinsey.

In Support of the BID:

- **Jon Kinsey** – He is partners with Tim Hennan and own 4-5 buildings in the distict that comprise eight different restaurants. He believes the city is losing tax dollars. He is willing to be assessed for the inclusion in the BID. He noted that 82-percent of property owners in the Bid are "for" it and willing to tax themselves for it. He asked everyone in support of the BID to stand in the Assembly.
- **Steve Hunt** – He manages Republic Parking and four other properties, with over 100 tenant companies. He met with his tenants and found that most were in favor. Representing his tenants is his number one priority. He supports more taxes to do more downtown.
- **Mitch Patel** (411 Broad Street) - His company has 37 hotels across the country: 12 in Chattanooga and 5 within the BID district. He informed the Council that most BIDs have happened in urban communities. He believes that BIDs create cleaner, safer and friendlier urban districts. He believes this is an investment in downtown and noted the competitive nature of BIDS across the South, such as Greenville and Asheville.
- **Ken Defoor** (801 Broad St.) – He and his brother have invested \$90 Million in Westville (hotel, salon, etc.) and will possibly invest another \$30 Million. He discussed how the first impressions of a city matter, and how improving downtown helps with that first impression for those coming to the city.



- **Charles Perry** (800 Market St.) – He and his wife, Dana, have been property owners (condominium) and residents since 2004. They are willing to pay the assessment for the work to improve the district. He believes the BID is an idea whose time has come. It represents civic democracy and civic capitalism.
- **Keith Sanford** (1 Broad St.) – He is the CEO of the Tennessee Aquarium, which supports the BID. He believes that for a nonprofit like the Tennessee Aquarium to willingly be taxed \$28,000 in the BID, he feels it is worth it. As Tivoli Board Chair and CVB Board Chair, he feels it will help those downtown business as well.
- **Cynthia Robinson** (800 Market St.) – She is a school board member and has invested \$35 Million downtown in the BID area. She believes the BID is important to the historical buildings downtown and bringing jobs to the district. She understands that property owners will take on the responsibility for the cost of the BID and that it cannot be a pass-through their tenants since they are locked into leases with tenants.
- **Chris Gobble** (811 Broad St.) – He is the Senior Director of Public Policy for the Chattanooga Area Chamber of Commerce and wanted to express the Chamber's support of the BID. He informed the Council that the Chamber's support for the BID was approved unanimously in the 2019 Public Policy agenda in November. As a member organization and property owner in the BID, they give their full support and look forward to the opportunity that the BID will afford to downtown Chattanooga.

In Opposition to the BID:

- **Greg Dixon** (1920 Chestnut St.) – He sees how oppressive the BID can be by concentrating power in the hands of a few. West Village is “white washing” to him. It is easy to influence when you have money. Small businesses are pushed out. Food trucks are also oppressed.
 - Councilwoman Coonrod later questioned Mr. Dixon and found that he was not a property owner within the BID boundaries. Chairman Oglesby apologized for allowing someone outside of the BID boundaries to speak during this hearing. Chairman Oglesby ruled to not allow others outside of the BID boundaries to speak during this hearing.
- **Charles Paty** (17–39 Patton Pkwy.) – Neither he nor his sister received the notice that was supposed to be mailed to each owner in the BID boundaries. He asked the Council to “follow the money” and check that the property tax structure is fair. He believes this BID is about bond money and argues that no auditing procedures are included in it currently. He also pointed out that there is nothing in the ordinance about the Sunshine Law.
- **William Wise** – He owns three properties, two of which are on vacant on Market Street. He has not been given the opportunity to opt out of the BID. He believes the BID will be a hardship on properties with no current income and will become a burden on tenants. He believes the BID will bring a hardship for services that do not address the real problems affecting downtown.
- **Pamela Reimer O'Dwyer** (17 Patton Pkwy. to end of block) – They are already negatively affected for the next year because of the upcoming changes to the Parkway. She cannot lease her building due to the upcoming construction. All of Patton Parkway is bordered by land that is not in the BID. She believes the ability to “opt out” should be included in the BID because they do not need ambassadors to take care of their property; they take care of their own property. She considers the assessment to be an undemocratic tax.

- **Peter Stein** (Second Presbyterian) – The church is owned by the Presbytery, but the BID assessment would come from the individual church's budget. The church is opposed because they have a 0-sub-budget. Programs would suffer in the BID. Ten percent of funds go to missions projects within the city and that's where they would prefer to spend their funds. They take care of their own property (including garden, sidewalk and parking lot). They have benefitted from the West Village project, but the church would rather opt out of the BID.

During and after public comments, Ms. White and River City's legal counsel, Rachel Ruiz, responded to questions on the following topics:

- Mail notification for public hearing (Councilpersons Berz and Henderson)
- Bonding concerns (Councilwoman Berz)
- Opting out (Councilpersons Berz and Gilbert)
- Annual reporting (Councilwoman Berz)
- Open meetings (Councilpersons Berz and Ledford)
- Tax abatement – PILOTs (Councilman Ledford)
- Self-imposed assessment vs. "tax" (Councilman Ledford)
- BID board composition and steering committee (Councilman Ledford)
- Nonprofit assessments (Councilman Henderson)
- Role of the "Ambassadors" (Councilman Gilbert)
- Self-perpetuating boards (Councilwoman Berz)
- Excluding government entities (Councilman Henderson)

Chairman Oglesby closed the public hearing at 6:37 p.m.

ORDINANCES – FINAL READING:

Agenda Item VI(a):

An ordinance to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534.

An ordinance to amend Chattanooga City Code, Part II, by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Sections 11-525 through 11-534. (Alternate Version)

Councilman Mitchell moved to approve, seconded by Councilman Byrd. Discussion ensued, with councilpersons offering amendments to the ordinance. Councilman Smith called a *point of order* to alert Chairman Oglesby to lights on his control panel for councilpersons wishing to speak who had not yet been recognized. Chairman Oglesby ruled in favor of continuing the discussion. The following topics were discussed further:

- Concerns with BID process (Councilman Smith)
- Board oversight (Councilman Ledford)
- Order of dissolution (Councilwoman Berz)

The following amendments were recorded by the Clerk:

- **Councilwoman Berz moved** to amend by adding that all meetings are held according to State Sunshine Law. She was seconded by Councilman Henderson. The motion carried.
- **Councilwoman Berz moved** to amend by adding that independent audits be performed every year before budget time. She was seconded by Councilman Henderson. The motion carried.
- **Councilwoman Berz moved** to amend by adding a statement a liability statement holding the City harmless. She was seconded by Councilman Mitchell. The motion carried. She also clarified that State law already holds the City harmless.
- **Councilman Henderson moved** to amend 11-5-31(b) regarding real property by adding that "all government-owned properties as defined by Tennessee code..." He was seconded by Councilman Mitchell. The motion carried.
- **Councilman Gilbert moved** to amend that the one individual, Mr. Charles Paty, could opt out the BID. He was seconded by Councilwoman Coonrod. Councilman Ledford added a friendly amendment by adding that "any person in opposition is exempt" from the BID. Councilman Gilbert moved the friendly amendment, seconded by Councilwoman Coonrod. Attorney Noblett confirmed by state law (7-84-515) that opting out could be allowed. The motion carried, with Councilman Mitchell voting "Nay."
- **Councilman Ledford moved** to amend by striking the second tax abatement (PILOT). He was seconded by Councilman Gilbert.
- **Councilman Ledford moved** to amend Section 11-5-29 with a new sub-section (f) by adding that the City Council will confirm the original nine members chosen by the steering committee. He was seconded by Councilman Gilbert. The motion carried upon roll call vote as follows:

Berz	Yes	Ledford	Yes
Byrd	No	Mitchell	No
Coonrod	No	Smith	Yes
Gilbert	Yes	Oglesby	Yes
Henderson	Abstain		

Yes – Five (5); No – Three (3); Abstain – One (1)

Attorney Noblett repeated the full list of amendments that had been voted on by the Council.

- Revision to district boundaries - Under 11-5-25
- Approval of BID Board - New section 11-5-29(f)
- Exclude government-owned property - Under 11-5-31
- Strike 11-5-31(g) regarding PILOTS
- Provision for Auditing and Open meetings - Combined under 11-5-32(k)
- Indemnify the City (hold harmless) – Under section 2 of ordinance

Councilman Byrd moved to approve the ordinance as amended. The motion failed due to a lack of a second.

ACTION: FAILED

ADJOURNMENT

On motion of Councilman Mitchell, Chairman Oglesby adjourned the meeting of the Chattanooga City Council until Tuesday, June 11, 2019, at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

AFFIDAVIT

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Charles D. Paty, after first being duly sworn do hereby make oath or affirm as follows:

I am over the age of eighteen (18) years of age.

I am competent to make this Affidavit based upon my own personal knowledge, information and belief.

I am an owner of real property located on Patten Parkway, Chattanooga, Hamilton County, Tennessee.

I never received by mail a notice of a Public Hearing scheduled for July 30, 2019, at 6:00 p. m., before the City of Chattanooga, Tennessee, City Council regarding a proposed ordinance to establish a Downtown Central Business Improvement District.

No such notice was mailed to me regarding a Public Hearing scheduled for July 30, 2019, at 6:00 p. m.



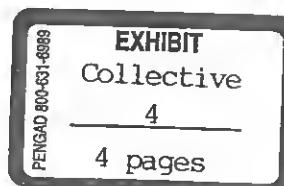
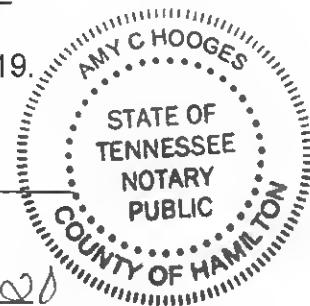
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF August, 2019.

Amy C. Hedges
NOTARY PUBLIC

MY COMMISSION EXPIRES: 11-16-20



AFFIDAVIT

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Kem Alexander, after first being duly sworn do hereby make oath or affirm as follows:

I am over the age of eighteen (18) years of age.

I am competent to make this Affidavit based upon my own personal knowledge, information and belief.

I am an owner of real property located on Patten Parkway, Chattanooga, Hamilton County, Tennessee.

I never received by mail a notice of a Public Hearing scheduled for July 30, 2019, at 6:00 p. m., before the City of Chattanooga, Tennessee, City Council regarding a proposed ordinance to establish a Downtown Central Business Improvement District.

No such notice was mailed to me regarding a Public Hearing scheduled for July 30, 2019, at 6:00 p. m.

Kem Alexander
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF August, 2019.

Angela M. Osborne
NOTARY PUBLIC

MY COMMISSION EXPIRES: 6-26-21



AFFIDAVIT

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Ralph D. Paty, after first being duly sworn do hereby make oath or affirm as follows:

I am over the age of eighteen (18) years of age.

I am competent to make this Affidavit based upon my own personal knowledge, information and belief.

I am an owner of real property located on Patten Parkway, Chattanooga, Hamilton County, Tennessee.

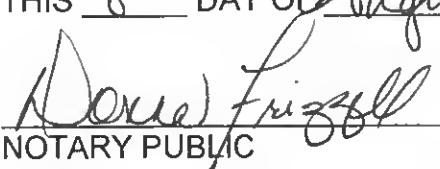
I never received by mail a notice of a Public Hearing scheduled for July 30, 2019, at 6:00 p. m., before the City of Chattanooga, Tennessee, City Council regarding a proposed ordinance to establish a Downtown Central Business Improvement District.

No such notice was mailed to me regarding a Public Hearing scheduled for July 30, 2019, at 6:00 p. m.


AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF August, 2019.


NOTARY PUBLIC

MY COMMISSION EXPIRES: 2/19/2023



AFFIDAVIT

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Marion Gaye Paty Wade, after first being duly sworn do hereby make oath or affirm as follows:

I am over the age of eighteen (18) years of age.

I am competent to make this Affidavit based upon my own personal knowledge, information and belief.

I am an owner of real property located on Patten Parkway, Chattanooga, Hamilton County, Tennessee.

I never received by mail a notice of a Public Hearing scheduled for July 30, 2019, at 6:00 p. m., before the City of Chattanooga, Tennessee, City Council regarding a proposed ordinance to establish a Downtown Central Business Improvement District.

No such notice was mailed to me regarding a Public Hearing scheduled for July 30, 2019, at 6:00 p. m.

Marion Gaye Paty Wade
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF August, 2019.

Angela M. Osborne
NOTARY PUBLIC

MY COMMISSION EXPIRES: 6-26-21



AFFIDAVIT

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Paul Smith, after first being duly sworn do hereby make oath or affirm as follows:

I am over the age of eighteen (18) years of age.

I am competent to make this Affidavit based upon my own personal knowledge, information and belief.

I am a board member and representative of Chattanooga Masonic Temple organization which organization is an owner of real property located on Cherry Street, Chattanooga, Hamilton County, Tennessee.

I, nor anyone in our organization, never received by mail a notice of a Public Hearing scheduled for July 30, 2019, at 6:00 p. m., before the City of Chattanooga, Tennessee, City Council regarding a proposed ordinance to establish a Downtown Central Business Improvement District.

No such notice was mailed to me nor our organization regarding a Public Hearing scheduled for July 30, 2019, at 6:00 p. m.

Paul E. Smith
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF August, 2019.

Angela M. Osborne
NOTARY PUBLIC

MY COMMISSION EXPIRES: 6-26-21

